

Message Text

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ACTION EUR-25

INFO OCT-01 ISO-00 ACDA-19 CIAE-00 PM-07 INR-10 L-03

NEA-10 NSAE-00 PA-04 RSC-01 PRS-01 SPC-03 USIA-15

TRSE-00 SAM-01 SAJ-01 IO-14 NIC-01 H-03 NSC-10 SS-20

DRC-01 EB-11 FAA-00 /161 W
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R 231337Z FEB 74

FM AMEMBASSY BONN

TO SECSTATE WASHDC 0649

SECDEF WASHDC

INFO CINCEUR VAIHINGEN

CINCUSAFE RAMSTEIN

CSAF WASHDC

AFCS SCOTT AFB

435TH MAS RHEIN MAIN AB GERMANY

C O N F I D E N T I A L SECTION 01 OF 03 BONN 02957

E.O. 11652 GDS

TAGS: MILI, GW

SUBJECT: MEMORANDUM OF UNDERSTANDING (MOU) ON THE USE
OF GERMAN AIRFIELDS BY US FORCES

REF: A. BONN A-700, NOV 19, 1973; B. STATE 247153,
DEC. 19, 1973

1. ON FEB. 7 REPS FROM USEUCOM, USAFE, AND VARIOUS FRG
MINISTRIES MET IN BONN TO DISCUSS AN FRG REDRAFT OF
SUBJECT MOU (SEE PARAS 3 AND 4, REF A).

2. FRG REPS WERE ADVISED OF THE DEPARTMENT'S VIEWS
WITH RESPECT TO MATTERS SET FORTH IN OARAS 2, 3, 4, AND
5, REF B. AS TO STATE DEPARTMENT'S RATIONALE ON
CONSTITUTIONAL PROBLEMS POSED BY DRAFT MOU WITH RESPECT
TO OPERATIONS PRIOR TO DECLARATION OF NATO ALERT
(PARA 2, REF B), FRG REPS STATED THAT FOLLOWING TEXT
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OF FRG CONSTITUTION PRECLUDED A BROAD CONSTRUCTION

UNDER WHICH AN ADMINISTRATIVE CLAIM IN IMPLEMENTATION OF ARTICLE 57 OF THE SUPPLEMENTARY AGREEMENT WOULD SUFFICE AS THE "DECISION OF AN ALLIANCE TO WHICH THE FRG IS A PARTY", THUS RECONCILING THE TEXT OF THE PROPOSED US MOU WITH ARTICLE 80A OF THE FRG CONSTITUTION. PARA 3 OF ARTICLE 80A, FRG CONSTITUTION PROVIDES "NOTWITHSTANDING THE PROVISIONS OF PARA 1 (WHICH STATES THAT WAR TIME DECREES WILL NOT COME INTO EFFECT UNTIL THE BUNDESTAG ACTUALLY DECREES AN INTERNATIONAL EMERGENCY) SUCH DECREES MAY BE GIVEN EFFECT ON THE BASIS OF, AND IN ACCORDANCE WITH, A DECISION TAKEN BY AN INTERNATIONAL ORGANIZATION WITHIN THE FRAMEWORK OF A TREATY ALLIANCE WITH THE AGREEMENT OF THE FEDERAL GOVERNMENT". AN INTERNATIONAL EMERGENCY IS DEFINED IN THE FRG CONSTITUTION AS A SITUATION IN WHICH THE TERRITORY OF THE FRG IS UNDER ATTACK, OR IMMEDIATELY THREATENED.

3. AS TO THE PROPOSED FRG EDITORIAL CHANGE TO TEXT ARTICLE 1, US DRAFT MOU (PARA 3, REF B), FRG REPS STATED THAT FRG WOULD PROVIDE A MINUTE OF UNDERSTANDING WHICH REFLECTS ITS AGREEMENT THAT "AIRCRAFT USED IN THE SERVICES OF THE US FORCES INCLUDES CHARTER AIRCRAFT".

4. AS TO US PREFERENCE FOR RETAINING "30 DAY PROVISION" IN ARTICLE 3 OF THE DRAFT US MOU (PARA 4, REF B), FRG REPS ADVISED THAT THIS PROVISION WAS UNACCEPTABLE IN THAT FRG WOULD NOT BE ABLE TO COORDINATE PLANS OF THE KIND ENVISAGED, WITHIN A 30 DAY PERIOD, AND THAT IT WAS UNWILLING TO BE PLACED IN A POSITION WHERE US PLANS WOULD BE EFFECTIVE UNLESS EUCOM WERE NOTIFIED OF FRG OBJECTIVES WITHIN A STATED PERIOD. FRG STATED, HOWEVER, THAT THE FMOT WOULD BE WILLING TO COMMUNICATE THEIR DECISION REGARDING PLANS WITHIN THE SHORTEST POSSIBLE TIME, AND, IN THE EVENT OF DIFFERENCES, THAT REPS OF THE PARTIES WOULD MEET PROMPTLY WITH A VIEW TOWARDS SETTLING DIFFERENCES WITHOUT DELAY, AND THAT SUCH LANGUAGE NOW APPEARS IN THE FRG REDRAFT.

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5. TEXT OF ARTICLES OF FRG REDRAFT WHICH DIFFERS FROM THAT OF ARTICLES OF US DRAFT FOLLOWS. BEGIN TEXT. ARTICLE 1--THE FOLLOWING ARTICLES OF THE PRESENT MOU SHALL BE APPLICABLE AFTER THE GOVERNMENTS OF BOTH CONTRACTING PARTIES HAVE AGREED ON THE APPLICATION OF THE MOU, OR AFTER A CORRESPONDING DECISION HAS BEEN TAKEN BY NATO WITH THE CONSENT OF THE FEDERAL GOVERNMENT.

ARTICLE 2--THE PRESENT MOU COVERS ALL AIRCRAFT USED IN
THE SERVICES OF THE US FORCES.

ARTICLE 3--THE USE BY THE US FORCES OR THE CIVILIAN
COMPONENT OF CIVIL AIRFIELDS OR OTHER LANDING AREAS NOT
MADE AVAILABLE FOR THE EXCLUSIVE USE FOR LANDING

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MILITARY AIRCRAFT IN THE FRG, AND THE SERVICES OF THE
GERMAN AIR TRAFFIC CONTROL UNITS AND THE INSTALLATIONS,
EQUIPMENT, AND SERVICES AT SUCH AIRFIELDS AND LANDING
AREAS, SHALL BE IN ACCORDANCE WITH PLANS ESTABLISHED
PURSUANT TO ARTICLE 4 OF THE PRESENT MEMORANDUM. THESE
PLANS SHALL FORM AN INTEGRAL PART OF THE PRESENT
MEMORANDUM.

ARTICLE 4--TO ENSURE AIR TRAFFIC SAFETY,

EUCOM WILL ESTABLISH THE ABOVE REFERENCED PLANS IN CLOSE CONSULTATION WITH THE FEDERAL MINISTER OF TRANSPORT; THE PLANS SHALL BE MODIFIED IF NECESSARY FOLLOWING TIMELY CONSULTATIONS WITH THE MINISTRY OF TRANSPORT. THE PLANS, AS WELL AS MODIFICATIONS, SHALL BECOME EFFECTIVE AFTER THE FEDERAL MINISTRY OF TRANSPORT HAS INFORMED HQ USEUCOM IN WRITING OF HIS APPROVAL. THE FEDERAL MINISTER OF TRANSPORT WILL COMMUNICATE HIS DECISION REGARDING APPROVAL WITHIN THE SHORTEST
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POSSIBLE TIME. IN THE EVENT OF A DIFFERENCE OF OPINION, THE REPS OF THE TWO PARTIES SHALL MEET PROMPTLY WITH A VIEW TO SETTLE DIFFERENCES WITHOUT DELAY.

ARTICLE 5--THE PLANS TO BE ESTABLISHED UNDER ARTICLE 4 OF THE PRESENT MEMORANDUM SHALL, PRIOR TO RELEASE OF THE SIMPLE ALERT BY NATO, ACCORD HIGHEST POSSIBLE PRIORITY TO US AIR TRANSPORT MOVEMENT WHILE HAVING REGARD TO THE REQUIREMENTS OF CIVIL AIR TRAFFIC. UPON DECLARATION OF AN ALERT BY THE NATO, SUCH PLANS SHALL BE SUPERSEDED BY THE APPLICABLE NATO PLANS FOR THE DURATION THEREOF.

ARTICLE 6--THE US AUTHORITIES SHALL IMPLEMENT THE PLANS ESTABLISHED IN ACCORDANCE WITH ARTICLE 4 OF THE PRESENT MEMORANDUM ONLY AFTER CONSULTING WITH THE FEDERAL MINISTRY OF TRANSPORT THROUGH THE US EMBASSY. THE BEGINNING OF SUCH IMPLEMENTATION SHALL, IN ANY EVENT, BE COMMUNICATED TO THE FEDERAL MINISTRY OF TRANSPORT AS PROMPTLY AS POSSIBLE." END TEXT.

6. THE COMMENTS OF THE US REPS DURING DISCUSSIONS ON THE ABOVE QUOTED TEXT CENTERED ON ARTICLES 1, 4, 5, AND 6. AS TO ARTICLE 1 THEY NOTED THAT CERTAIN OF THE ARTICLES OF THE MOU SHOULD HAVE IMMEDIATE EFFECT UPON SIGNATURE, BUT THAT THE LANGUAGE OF THE FRG REDRAFT SEEMED TO NEGATE THIS. THEY SUGGESTED THAT PERHAPS THE PURPOSE AND INTENT OF THIS ARTICLE COULD BE CLARIFIED BY STATING THAT PLANS JOINTLY DEVELOPED PURSUANT TO ARTICLE 4 REGARDING THE USE BY US FORCES OF GERMAN AIRFIELDS PRIOR TO A DECLARATION OF SIMPLE ALERT WILL HAVE FORCE AND EFFECT ONLY UPON THE EXPRESS CONSENT OF BOTH GOVERNMENTS. FRG REPS STATED THAT THIS CLARIFICATION WOULD BE REFLECTED IN A REVISED FRG DRAFT. US REPS QUERIED WHETHER THE LANGUAGE "OR AFTER A CORRESPONDING DECISION HAS BEEN TAKEN BY NATO WITH THE CONSENT OF THE FEDERAL GOVERNMENT" REFERRED TO DECLARATIONS OF A STATE OF ALERT BY THE SUPREME ALLIED COMMANDER, EUROPE, AND IF

SO, WHETHER PLANS ESTABLISHED PURSUANT TO ARTICLE 4 OF
THE FRG REDRAFT FOR PERIODS PRIOR TO NATO ALERT WOULD
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CONTINUE IN FORCE TO THE EXTENT THAT THEY WERE
COMPATIBLE WITH THE NATO ALERT PLANS. FRG REPS
CONFIRMED THAT THIS LANGUAGE REFERRED TO DECLARATIONS
OF A STATE OF ALERT BY NATO AND, IN SUCH CASES, THAT
PLANS PURSUANT TO ARTICLE 4 WOULD CONTINUE SUBSEQUENT
TO NATO ALERT DECLARATIONS IF THEY WERE COMPATIBLE
WITH NATO ALERT PLANS. THIS AMPLIFICATION WILL ALSO
BE REFLECTED IN THE FRG REDRAFT.

7. AS TO ARTICLE 5, THE US REPS ADVISED THAT THE TEXT
COULD BE READ AS SUBORDINATING US AIR TRAFFIC
MOVEMENTS TO CIVILIAN AIR TRAFFIC REQUIREMENTS. THEY
SUGGESTED THE FOLLOWING REVISION, TO WHICH THE FRG
REPS AGREED: "THE PLANS TO BE ESTABLISHED UNDER
ARTICLE 4 OF THIS MEMORANDUM SHALL, PRIOR TO A
DECLARATION OF SIMPLE ALERT BY NATO, ACCORD TO US AIR
TRANSPORT MOVEMENTS THE PRIORITIES REQUIRED FOR THE
EFFECTIVE ACCOMPLISHMENT OF THE US DEFENSE MISSION.
THE ESSENTIAL REQUIREMENTS OF CIVIL AIR TRAFFIC WILL,
TO THE MAXIMUM EXTENT POSSIBLE, BE RESPECTED." "UPON
THE DECLARATION OF AN ALERT BY NATO, APPLICABLE NATO
PLANS WILL BE IMPLEMENTED. PLANS ESTABLISHED UNDER
ARTICLE 4 OF THIS MEMORANDUM FOR PERIODS PRIOR TO NATO
ALERT SHALL CONTINUE IN FORCE TO THE EXTENT THAT THEY
ARE COMPATIBLE WITH THE NATO ALERT PLANS."

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8. AS TO ARTICLE 6 THE US REPS STATED THEIR BELIEF THAT ONCE THE PARTIES HAD AGREED THAT A PRE-NATO ALERT EMERGENCY WARRANTED THE APPLICATION OF THE PLANS ESTABLISHED PURSUANT TO ARTICLE 4, FURTHER DELAYS IN THE IMPLEMENTATION OF SUCH PLANS SHOULD BE MINIMIZED, AND THAT THE FORMAL CONSULTATION VISUALIZED BY ARTICLE 6 SHOULD NOT BE REQUIRED. ANY REVISION OF THE PLANS THAT MIGHT BE DEEMED NECESSARY, BY EITHER SIDE, TO MEET THE PECULIARITIES OF A PARTICULAR SITUATION COULD BE COMMUNICATED EFFECTIVELY UNDER LESS FORMAL PROCEDURES. FRG REPS AGREED TO REVISE THE TEXT OF ARTICLE 6 IN THE LIGHT OF US COMMENT.

9. PRIOR TO THE CONCLUSION OF THE DISCUSSIONS FRG REPS WERE ADVISED THAT A DEFINITIVE US POSITION ON THE FRG REDRAFT WOULD BE FORMULATED IN WASHINGTON AND THAT THE FRG REDRAFT, AS WELL AS THE PROPOSALS MADE DURING CONFIDENTIAL

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THE PRESENT DISCUSSIONS WOULD BE REFERRED TO WASHINGTON FOR STUDY AND CONSIDERATION.

10. FRG REPS MADE NO REFERENCE TO FRG INDEMNIFICATION RESPONSIBILITIES AND THEY DID NOT PROPOSE A CLAIMS ARTICLE, POSSIBLY BECAUSE THEY BELIEVE THAT JOINTLY DEVELOPED PLANS FOR US USE OF GERMAN AIRFIELDS IN EMERGENCIES WILL NOT UNDULY DISRUPT ESSENTIAL CIVILIAN AIR TRAFFIC.

11. IT WAS AGREED THAT IN THE INTEREST OF EXPEDITING THE FORMULATION OF THE PLANS VISUALIZED BY ARTICLE 4 OF THE FRG REDRAFT, THAT THE FMOT WOULD IMMEDIATELY REQUEST

ITS CIVIL AIRFIELD AUTHORITIES AT NUERNBERG, BONN/KOLN, STUTTGART/ECHTERDINGEN, AND SAARBRUCKE/ENSHEIM TO SUBMIT TO EUROM THEIR NORMAL DAILY CIVIL FLIGHT SCHEDULE SO THAT US AUTHORITIES COULD DETERMINE HOW BEST THE US MILITARY REQUIREMENTS COULD BE INTERFACED AT EACH OF THESE AIRFIELDS.

12. FRG REPS STATED THAT A REVISED DRAFT WOULD BE READY FOR JOINT CONSIDERATION IN THE NEAR FUTURE. HOPEFULLY, BY THE FIRST WEEK IN MARCH. REQUEST DEPT. VIEWS AND FURTHER INSTRUCTIONS, IF POSSIBLE, BY MARCH

4.

HILLENBRAND

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Message Attributes

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Disposition Case Number: n/a
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